

STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
MICHIGAN TAX TRIBUNAL

Flint Community Schools,  
Petitioner,

v

MTT Docket No. 0316686

Mundy Township,  
Respondent.

Tribunal Judge Presiding  
Jack Van Coevering

**ORDER GRANTING PETITIONER'S MOTION FOR SUMMARY DISPOSITION**  
**PURSUANT TO MCR 2.116(C)(10)**

**PETITIONER'S CONTENTIONS**

On March 17, 2006, Petitioner filed a Motion for Summary Disposition under authority of TTR 230 and MCR 2.116(C)(10), together with a brief in support, challenging Respondent's assessment of the building known as the Base Camp Challenge Center (Base Camp), located on the Genesee Area Skills Center (GASC) Campus.

Petitioner contends that Base Camp, which is owned and operated by Flint Community Schools and the Genesee Intermediate School District, "is used for public educational purposes" and is therefore exempt from property taxation under both Section 1141 of the Revised School Code and Section 7m of the General Property Tax Act.

**RESPONDENT'S CONTENTIONS**

Respondent filed a response to the Motion on May 10, 2006, which is untimely and will not be considered.

**STANDARDS FOR DETERMINING SUMMARY DISPOSITION**

TTR 205.111(4) states that "If an applicable entire tribunal rule does not exist, the 1995 Michigan Rules of Court...shall govern." Under MCR 2.116(C)(10), a motion for summary disposition will be granted if the documentary evidence demonstrates that there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. *Smith v Globe Life Insurance*, 460 Mich 446, 454-455; 597 NW2d 28 (1999). In *Quinto v Cross & Peters Co*, 451 Mich 358, 362-363; 547 NW2d 314 (1996), the Michigan Supreme Court set forth the following standards for reviewing motions for summary disposition brought under MCR 2.116(C)(10):

In reviewing a motion for summary disposition under MCR 2.116(C)(10), the trial court considers affidavits, pleadings, depositions, admissions, and documentary evidence filed by the parties, MCR 2.116(G)(5), in the light most favorable to the

party opposing the motion. A trial court may grant a motion for summary disposition under MCR 2.116(C)(10) if affidavits or other documentary evidence show there is no genuine issue in respect to any material fact, and the moving party is entitled to judgment as a matter of law. MCR 2.116(C)(10), (G)(4).

In presenting a motion for summary disposition the moving party has the initial burden of supporting its position by affidavits, depositions, admissions, or other documentary evidence. *Neubacher v Globe Furniture Rentals*, 205 Mich App 418 420; 522 NW2d 335 (1994). The burden then shifts to the opposing party to establish that a genuine issue of disputed fact exists. *Id.* Where the burden of proof at trial on a dispositive issue rests on a nonmoving party, the nonmoving party may not rely on mere allegations or denials in pleadings, but must go beyond the pleadings to set forth specific facts showing that a genuine issue of material fact exists. *McCarty v J Walter Thompson*, 437 Mich 109, 115; 469 NW2d 284 (1991). If the opposing party fails to present documentary evidence establishing the existence of a material factual dispute, the motion is properly granted. *McCormic v Auto Club Ins Ass’n*, 202 Mich App 233, 237; 507 NW2d 741 (1992).

In the event, however, it is determined an asserted claim can be supported by evidence at trial, a motion under subsection MCR 2.116(C)(10) will be denied. *Arbelius v Poletti*, 188 Mich App 14; 469 NW2d 436 (1991).

### **DISCUSSION**

This motion requires the Tribunal to determine if there are genuine issues of material fact as to whether Base Camp Challenge Center, which is located on the Genesee Area Skills Center campus, is exempt from taxation under either Section 1141 of the Revised School Code of Michigan or Section 7m of the General Property Tax Act. It also requires the Tribunal to determine if Base Camp serves a “public educational purpose” and determine whether charging a fee to individuals, groups, and businesses for course instruction and use of the facility eliminates the facility’s tax exempt status.

### **FINDINGS OF FACT**

Petitioner, Flint Community Schools, a tax exempt educational entity, owns and jointly operates the Genesee Area Skills Center (“GASC”) with the Genesee Intermediate School District. The GASC provides students throughout Genesee County with alternative educational opportunities, which including building trades, vocations, and other life and job skills.

Part of GASC’s educational offerings include the Base Camp Challenge Center. Base Camp, which includes traditional classrooms, meeting rooms, a high ropes course, and a climbing wall, is housed in its own building on the GASC campus. The high ropes course and climbing wall are used to teach leadership, problem solving, teamwork, and other life skills. Every student who attends the skill center participates in Base Camp training.

The Base Camp facility is primarily used to train high school students who attend the skills center. However, Base Camp courses are held for adults, groups, and businesses after school hours. Approximately 20% of Base Camp’s total usage derives from courses that are held for adults, groups, and businesses who desire to be trained in leadership, problem solving, and team-building skills. The Base Camp faculty also designs customized courses for groups and businesses based on

the skills they wish to acquire. A nominal fee is charged for these courses.

Whether utilized by high school students, adults, groups, or businesses, the Base Camp skills training is always part of a formal, structured educational program taught by Flint Community Schools instructors. The Base Camp facility is never rented out. The fees charged cover the costs involved with operating the building and teaching the courses. Any profits are used to fund programs and maintain Base Camp and other GASC facilities.

Beginning in 2003, and continuing through 2005, Respondent assessed the portion of the GASC where the Base Camp Challenge Center is located. Petitioner appealed the assessment to the Mundy Township Board of Review on March 14, 2006 and it denied the appeal on April 11, 2005.

### **CONCLUSIONS OF LAW**

“Where a tax exemption is sought, we recall that because tax exemptions use the desirable balance achieved by equal taxation, they must be narrowly construed.” *Wexford Med Group v City of Cadillac*, \_\_\_ Mich \_\_\_, \_\_\_ NW2d (SC No. 127152, May 4, 2006 at 11). However, even under the narrowest of statutory construction, Petitioner’s exemption must be granted under either MCL 211.7, the General Property Tax Act, or MCL 380.114, the Revised School Code of Michigan

MCL 211.7m states that, “Property owned by... [a] school district, used for public purposes...” is exempt from taxation. “A claimant seeking a real property tax exemption must establish four elements:

- (1) The real estate must be owned and occupied by the exemption claimant;
- (2) The exemption claimant must be a library, benevolent, charitable, educational or scientific institution;
- (3) The claimant must have been incorporated under the laws of this State;<sup>1</sup>
- (4) The exemption exists only when the buildings and other property thereon are occupied by the claimant solely for the purposes for which it was incorporated.” *Association of Little Friends, Inc v Escanaba*, 138 Mich App 302, 306; 360 NW2d 602 (1984).

Petitioner clearly meets all the requirements of the test for tax exemption handed down in *Association of Little Friends*. Flint Community Schools is an educational institution that owns and occupies the Genesee Area Skills Center where the Base Camp is situated. The Genesee Area Skill Center is owned and operated by Flint Community Schools, which is an educational institution. And, although Respondent may not agree, the Base Camp building is occupied solely by Petitioner and is used solely for educational, albeit non-traditional, educational purposes.

Simply because Base Camp charges nominal fees for adults and businesses to obtain educational instruction and utilize the facilities does not negate its exemption. The amount of the fees charged for course instruction and use of the Base Camp facility is the approximate cost of the services provided; that is, the fee charged is enough to cover overhead associated with operating the

---

<sup>1</sup> The requirement that to be tax-exempt, an institution be incorporated within the state has been found to be unconstitutional. See *American Youth Foundation v Benona Twp*, 37 Mich App 722, 724 (1972), citing *WHYY v Glassboro*, 393 US 117 (1968).

building and the salaries of the instructors who teach the courses. Charging a fee to provide these unique educational opportunities to the community is not inconsistent with the Flint School District's primary purpose of education and will not negate its property tax exemption.

Petitioner also argues that the Base Camp facility is exempt under the Revised School Code. MCL 380.1141 states that, "The property of a school district is exempt from taxation..." with some exceptions that do not apply to the present case. *Lakeview School District v City of Battle Creek* 1991 Mich Tax Lex 33, MTT Docket No. 103231 (1991), is one of the few cases interpreting Section 1141. In that case, Battle Creek assessed the school district because the school district allowed a nonprofit nursery and daycare facility that charged a nominal fee for its services to occupy the district's property. The Tribunal found that the nursery/daycare center promoted education by developing "enthusiasm for learning" and "kindergarten readiness skills," and was therefore entitled to the tax exemption provided under the revised school code. *Id.* at 8-9. Ultimately, the Tribunal held that in order to lose the tax exemption of school district property the property had to be occupied by a business operating for exclusively private purposes.

Petitioner is entitled to the ad valorem tax exemption provided to educational institutions under both the General Property Tax Act and the Revised School Code. Petitioner provides opportunities for educational leadership, problem solving, and team building skills training to students, adults, groups, and businesses at its Base Camp Challenge Center facility. Merely because it charges a nominal fee to provide educational instruction to adults, groups, and businesses it should not suffer the loss of its tax exempt status.

### **JUDGMENT**

IT IS ORDERED AND ADJUDGED that petitioner's claim for each of the tax years 2003 through 2005 is GRANTED and assessments on subject property and corresponding assessments are hereby CANCELLED.

IT IS FURTHER ORDERED AND ADJUDGED that the assessor shall correct or cause the assessment rolls to be corrected for tax year 2005 to reflect the above-ordered exemption within 20 days of the date of entry of this Opinion and Judgment.

IT IS FURTHER ORDERED AND ADJUDGED that the tax collecting officer having the rolls in his possession shall correct or cause the tax rolls and tax bills to be corrected in accordance with the above-ordered exemption and shall issue a refund, if necessary, within 20 days of the date of entry of this Judgment. A refund shall include a proportionate share of any property tax administration fees paid, a proportionate share of any interest and penalty collected on delinquent taxes, and interest shall accrue from the date of payment of the tax at the rate of 9% per year.

This Order resolves all pending claims in this matter and closes this case.

MICHIGAN TAX TRIBUNAL

Entered:

By: Jack Van Coevering